MISC 2003245626

DEC 22 2003 16:09 P 1

RICHARD N TAKECHI
REGISTER OF DEEDS
DOUGLAS COUNTY, NE

RECEIVED

DECLARATION OF TEMPORARY USE RESTRICTION

This Declaration of Temporary Use Restriction is made this 18th day of December, 2003, by COMMERCIAL FEDERAL BANK, a federal savings bank ("Declarant").

Preliminary Statement

Declarant is the owner of unimproved platted lots in Commercial Federal Business Park legally described as follows (the "Restricted Lots"):

> Lots 1 through 10, inclusive, Commercial Federal Business Park Replat 1, and Lot 3, Commercial Federal Business Park Replat 3, each subdivision as surveyed, platted and recorded in Douglas County, Nebraska.

Concurrently with the execution of this Declaration, Declarant has sold the unimproved lot legally described as follows (the "Benefited Lot"):

> Lot 2, Commercial Federal Business Park Replat 3, a subdivision as surveyed, platted and recorded in Douglas County, Nebraska.

In consideration of the purchase and sale of the Benefited Lot, Declarant has agreed to impose a temporary restriction on the Restricted Lots providing for the prohibition of construction and operation of a free standing restaurant on the Restricted Lots prior to construction of a free standing restaurant on the Benefited Lot.

NOW, THEREFORE, in consideration of the foregoing, and in consideration of valuable consideration exchanged in connection with the Declarant's sale of the Benefited Lot, the Declarant agrees that the Restricted Lots shall be restricted as follows:

> Until the earlier of: (i) three (3) years from the date of this Declaration; or (ii) upon the date of opening of a free standing restaurant business from the Benefited Lot, none of the Restricted Lots may be used for the operation of a free standing restaurant.

The foregoing restriction shall run with the land and shall be binding and enforceable on the successors and assigns to ownership of the Benefited Lot and Restricted Lots.

IN WITNESS WHEREOF, the Declarant has executed this declaration to be effective as of the date and year first above written.

COMMERCIAL FEDERAL BANK, a federal savings bank

By: David S. Fisher
Title: Executive Vice President

STATE OF NEBRASKA)
) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 18th day of December, 2003, by David S. Fisher, Executive Vice President of Commercial Federal Bank, a federal savings bank, on behalf of the bank.

GENERAL NOTARY - State of Nebraska
MICHAEL D. MATEJKA
My Comm. Exp. Jan. 14, 2007

Michael D. Matejka
Notary Public

00180805

misc a

MC-07102

FEE 10.50 FB MC-07104

BKP ____ C/O ____ COMP ____

DEL ____ SCAN ____ FV ____

Bor 35
C03-2882
EA